

JOHN J. TECKLENBURG MAYOR City of Charleston

South Carolina

Elerh of Council Department

VANESSA TURNER MAYBANK CLERK OF COUNCIL

#### **NOTICE OF MEETING**

A meeting of the Committee on Real Estate will be held beginning at 3:00 p.m., January 25, 2016, at City Hall, First Floor Conference Room, 80 Broad Street. The agenda will be as follows:

#### **AGENDA**

Invocation

Approval of Minutes: January 12, 2016

- a.) Request approval of the Resolution granting the Mayor discretion not to terminate the Purchase and Sale Agreement dated December 15, 2015, between the City of Charleston and 99 WestEdge Developer, LLC (TMS: a portion of 460-00-00-013; 99 WestEdge)
- b.) Request approval of the Resolution expressing the City's intention to reimburse from the first available TIF bond proceeds both the City and MUSC for any costs incurred on account of either party's agreement to guaranty certain costs for public improvements supporting WestEdge relating to the infrastructure payment required in the Purchase and Sale Agreement dated December 15, 2015 for the sale of a portion of 180 Lockwood [TMS: a portion of 460-00-00-013; Horizon Redevelopment Project Area (the "TIF District"), 99 WestEdge]
- c.) Authorize Mayor to execute the attached Lease Amendment between the City (Landlord) and Member II, Inc. (Tenant) whereby the City agrees to allow Tenant, as part of a restaurant kitchen improvement project, to install an above ground grease trap and a vent-less hood with a fire suppression system. (TMS: 459-09-03-147; Ann Street Visitor's Center Parking Garage Retail Space) [Ordinance]

# REAL ESTATE COMMITTEE GENERAL FORM

TO:	Real Estate Committee	DATE:	January 26, 2016
FROM:	Colleen Carducci	DEPT:	BFRC
ADDRES	SS: 99 WestEdge		
TMS:	Portion of 460-00-00-013		
the Purch	REQUEST: Request approvate and Sale Agreement dated Developer, LLC.	val of the Resolution December 15, 201	on granting the Mayor discretion not to terminate 15, between the City of Charleston and 99
COOR	DINATION: The request ha All supporting	s been coordina documentation mi	
		<u>s</u>	ignature Attachments
De	partment Head		
Le	gal Department	France	1 Cantarel
Ch	ief Financial Officer		
	ector Real Estate	Colleen C	Inducei by FC.
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(Fr. 1997), 1998)	<b>FUNDING</b> : Was fur If yes, was funding previ	•	Yes No No
*If appro	oved, provide the following:	Dept/Div.	Acct:
Balance	in Account	_Amount needed	for this item
NEED:	Identify any critical time cons	straint(s).	

TO:	Real Estate C	ommittee	DATE:	January 26	5, 2016
FROM:	Colleen Cardu	ıcci	DEPT:	BFRC	
ADDRES	SS: 99 WestEd	dge			
TMS:	Portion of 460-00-	00-013			
the Purch	REQUEST: Rase and Sale Agree Developer, LLC.	eement dated Decem	ne Resolution nber 15, 201	on granting the	Mayor discretion not to terminate e City of Charleston and 99
<u>AC</u>	TION: What act	tion is being taken	on the Pi	operty ment	tioned?
ACC	PURCHASE	eller roperty Owner)		Purch	aser
	Terms: CONDEMNATION Terms:				
	Donation Terms:				
	OTHER Terms:				
SALI	Seller (Property Ov	vner) City of Charle	eston	Purchaser	99 West Edge Developers, LLC
	NON-PROFIT ORG	i, please name			
M	Terms:	100			
•		not to terminate the 2015, between the C for failure of the I proceed to a Closing 1. The Mayor remain moving toward meet 2. For each 15 day penot occurred, the Pur \$25,000, which amounts and the control of the Pur \$25,000, which amounts are control of the Pur \$25,000, which amounts are control of the pur \$25,000, which amounts are control of the purposes are cont	Purchase a lity of Charles in after Januars satisfied ing the Final eriod beyon chaser delivant shall be curs, but when the curs in the cu	nd Sale Agree leston and 99 V Contingency a ary 31, 2016, p that the Purcha ancing Conting and January 31, wers the City a applicable to the	aser is expeditiously gency; 2016 that the Closing has amount equal to the Purchase Price in the hall be non-refundable

March 15, 2016 without an amendment to the Purchase and Sale Agreement duly authorized by Ordinance of the City.

<b>EASEMENT</b>	Grantor (Property Owner)	Grantee	
PERMANE Terms: TEMPORA			
LEASE INITIAL Terms: RENEWAL Terms: AMENDME Terms:		Lessee:	
Improvement Owner: Terms:	of Property		
BACKGROUND CHI property, has a back	<u>ECK</u> : If Property Action Req kground check been comple	quest is for the sale or lease of city eted?  Yes  No  N/A	AND STATE OF THE PARTY.
Results:		Tes E NO E N/A	
	Signature:	Collen Carducci by FC and p.  Director Real Estate Management	
ADDITIONAL: Pleasetc.) regarding City	se identify any pertinent det Property.	tail (Clauses, Agreement Terms, Re	
NEED: Identify any	critical time constraint(s).	Province of the second	Constant Constant



RESOLUTION

WHEREAS, on December 15, 2015, the City of Charleston as Seller, and 99 West Edge Developer, LLC, as Purchaser, entered into an Agreement for the Purchase and Sale of Real Property pertaining to a portion of a parcel of land owned by the City bearing Charleston County Tax Map No. 460-00-00-013 (the "Agreement); and

WHEREAS, as a condition precedent to the City's obligation to close, 99 West Edge Developer, LLC is to provide evidence reasonably satisfactory to the City of a Construction Loan and/or other funds in place sufficient and available to complete the construction of the Project as defined in the Agreement (the "Financing Contingency"); and

WHEREAS, the Agreement calls for a closing date as on or before February 1, 2016; and

WHEREAS, 99 West Edge Developer, LLC is pursuing financing as contemplated by the Agreement, but will need additional time to finalize requirements of its lender; and

WHEREAS, City Council deems it appropriate and in the public interest that the Mayor be given discretion not to terminate the Agreement for the failure of the Financing Contingency and to allow the Agreement to proceed to Closing after February 1, 2016, upon the conditions as hereafter set forth.

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Charleston that the Mayor be, and hereby is, granted the discretion not to terminate the Agreement for failure of the Financing Contingency and to allow the same to proceed to closing after February 1, 2016, provided:

- 1. The Mayor is satisfied that 99 West Edge Developer, LLC is expeditiously moving toward meeting the Financing Contingency;
- 2. For each 15 day period (or part thereof) beyond February 1, 2016 that the Closing has not occurred, 99 West Edge Developer, LLC delivers to the City an amount equal to \$25,000, which amount shall be applicable to the Purchase Price in the event Closing occurs, but which amounts shall be non-refundable; and
- 3. In no event shall the Mayor authorize Closing to occur after March 15, 2016 without an amendment to the Purchase and Sale Agreement duly authorized by Ordinance of the City.

DONE TH	IISDAY OF	, 2016.
	John J. Tecklenburg, Mayor	
ATTEST:		
	Clerk of Council	

b.)

# REAL ESTATE COMMITTEE GENERAL FORM

TO: Real Estate Committee DATE: January 26, 2016	
FROM: Colleen Carducci DEPT: BFRC	
ADDRESS: Horizon Redevelopment Project Area (the "TIF District"), 99 WestEdge	
TMS: Portion of 460-00-00-013	
ACTION REQUEST: Request approval of the Resolution expressing the City's intention to reimburse from the first available TIF bond proceeds both the City and MUSC for any costs incurred on account of either party's agreement to guaranty certain costs for public improvements supporting WestEdge relating the infrastructure payment required in the Purchase and Sale Agreement dated December 15, 2015 for sale of a portion of 180 Lockwood.	
COORDINATION: The request has been coordinated with:  All supporting documentation must be included	ii4
Department Head  Segment Signature  Attachments	
Legal Department	
Chief Financial Officer	
Director Real Estate  Management  College Carducci  Minimum College Ca	
FUNDING: Was funding needed? * Yes No I No III	
*If approved, provide the following: Dept/DivAcct:	
Balance in Account Amount needed for this item	
NEED: Identify any critical time constraint(s).	
* Funding will be designated from the first bond proceeds available within the TIF District.	

T	O:	Real E	state (	Committee	DATE:	January 26, 201	6
FI	ROM:	Collee	n Caro	lucci	DEPT:	BFRC	
Al	DDRE	SS: <u>H</u>	orizon F	Redevelopment Proj	ect Area (the	'TIF District'), 99 W	estEdge
T	NS:	Portion o	f 460-00	D-00-013			
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	AC	<u>TION</u> : V	Vhat ac	ction is being tak	en on the Pi	operty mentione	d?
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		OTHER Terms:					2:
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	SAL	_	perty O	wner)		Purchaser	
		NON-PRO Terms:	FIT OR	G, please name			
		OTHER Terms:					
	EAS	EMENT	Grante (Prope	or erty Owner)		Grantee	
		PERMANE Terms:	ENT				
		TEMPORA	\RY				

LEASE	Lessor: Lessee:
INITIAL INITIAL	
Term	-
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Term	s:
☐ AME	NDMENT
Term	B:
Improven	nent of Property
Owne	
Terms	In the event either or both of the City and MUSCF makes
	payment pursuant to its 50% Guaranty set forth in the December
	15, 2015 Purchase and Sale Agreement, prior to any other
	disbursement of TIF Proceeds (except with the consent of MUSCF and City), the City shall relmburse itself and MUSCF from
	said TIF Proceeds the full amount paid under each such 50%
	Guaranty.
BACKGROUND property, has a	CHECK: If Property Action Request is for the sale or lease of city background check been completed?  Yes No NA
Results:	
	Signature: Colles Carducci
	Director Real Estate Management
ADDITIONAL: lotc.) regarding (	Please identify any pertinent detail (Clauses, Agreement Terms, Repeals City Property.
IEED: Identify:	Pay critical time constraints



A RESOLUTION

EXPRESSING THE INTENTION TO REIMBURSE THE CITY AND THE MEDICAL UNIVERSITY OF SOUTH CAROLINA FOUNDATION FOR ANY COSTS INCURRED ON ACCOUNT OF EITHER PARTY'S AGREEMENT TO GUARANTY CERTAIN COSTS FOR PUBLIC IMPROVEMENTS SUPPORTING WESTEDGE

As an incident to the adoption of this Resolution, City Council of the City of Charleston makes the following findings of fact:

Pursuant to the "Tax Increment Financing Law" codified at Title 31, Chapter 6, Code of Laws of South Carolina, 1976 as amended (the "TIF Act") the City of Charleston (the "City") is authorized to establish redevelopment project areas, issue obligations to carry out a redevelopment project and pay redevelopment project costs, each as defined in the TIF Act. In accordance with the foregoing, the City Council of the City ("City Council") by ordinance (the "TIF Ordinance") adopted December 16, 2008, established the Horizon Redevelopment Project Area (the "TIF District"). The Redevelopment Plan attached to the TIF Ordinance describes the expectation that certain public improvements will be funded by revenues generated by the TIF Ordinance (the "TIF Revenues") or will be financed by borrowings secured by a pledge of revenues generated by the TIF District.

The City and the Medical University of South Carolina Foundation ("MUSCF" and together with the City, the "Supported Organizations") joined in the establishment of the Horizon Project Foundation, Inc. ("HPF"), a South Carolina non-profit corporation, the primary function of which is to support (i) the education, research and clinical funding activities of MUSCF on behalf of its supported organizations and (ii) the City's objective to create economic development opportunities and improved quality of life in its neighborhoods, by working to implement the redevelopment project plan for the development of the certain lands, located wholly within the TIF District, and known as the "Horizon Redevelopment Project Area" (and sometimes referred to as "WestEdge").

The Supported Organizations and HPF entered into that certain Master Option Agreement dated December 16, 2014 granting HPF the right to acquire fee simple title and/or easements and other possessory rights in and to any or all of the lands, owned and/or controlled by City and MUSCF, identified within the Master Option Agreement (which lands comprise the majority of WestEdge and are located wholly within the TIF District (the "Contributed Lands").

The City, as owner of an approximately 2.73 acre parcel located at the corner of Lockwood and Fishburne Streets (the "99 WestEdge Parcel"), which parcel lies within the TIF District, but is not a portion of the Contributed Lands, and 99 West Edge Developer, LLC ("99 WE Developer") entered into that certain Agreement for the Purchase and Sale of Real Property dated December 15, 2015 (the "99 WestEdge PSA"), contemplating, among other things:

- (i) the sale of a portion of the 99 WestEdge Parcel (the "Developer Parcel") to 99 WestEdge Developer and its construction thereon of a retail and residential mixed use project (the "Developer Project")
- (ii) the entry into a Development Agreement at the closing of said sale, whereby 99 WE Developer would construct a parking deck and other improvements (the "City 99 WestEdge Improvements") on the portion of the 99 WestEdge Parcel retained by the City (the "City Deck Project" and together with the Developer Project, the "99 WestEdge Project"); and
- (iii) the entry into an Infrastructure Development Agreement (the "IDA") between 99 WestEdge Developer and HPF, whereby HPF will engage the 99 WestEdge Developer to construct certain public hardscape and landscape improvements, as contemplated by the Master Development Plan for the Horizon District, within the rights of way of WestEdge Street and Fishburne Street, as well as upon portions of the Developer Parcel, including a pedestrian plaza at the intersection of Fishburne Street and Horizon Street (to be renamed WestEdge Street) (hereinafter collectively referred to as the "Street Improvements") and providing that HPF shall reimburse 99 WestEdge Developer for the costs of construction of the Street Improvements, including 99 WestEdge Developer's costs of capital allocable to such construction costs (the "Street Improvement Costs"), within 12 months after 99 WestEdge Developer's completion of the Street Improvements and the 99 WestEdge Project.

Section 9.4 of the 99 WestEdge PSA provides that:

...[a] condition precedent to 99 WestEdge Developer's obligation to enter into such IDA is that [City] and [MUSCF] each agree that any amount of [the Street Improvement Costs] that is not paid to 99 WestEdge Developer by HPF, shall be paid to Purchaser, 50% by [City] and 50% by MUSCF (each a "50% Guaranty"). [City] agrees to give its 50% Guaranty in the event the IDA is executed by HPF and 99 WestEdge Developer and MUSCF gives its 50% Guaranty. The 50% Guaranty authorized herein shall not exceed \$3,735,536 without further approval by City Council.

In order to evidence the City's intention to reimburse itself for any payment made pursuant to Section 9.4 above, and to offer assurance to MUSCF that any payment it similarly makes will likewise be reimbursed, the City wishes to provide that each of the City and MUSCF will be reimbursed directly from the first available proceeds from TIF bonds issued in connection with the TIF Ordinance ("TIF Proceeds").

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CHARLESTON, SOUTH CAROLINA:

SECTION 1. City Council confirms all the findings of fact contained in the recitals of this Resolution.

SECTION 2. In the event either or both of the City and MUSCF makes payment pursuant to its 50% Guaranty set forth in 9.4 above, prior to any other disbursement of TIF Proceeds (except with the consent of MUSCF and City), the City shall reimburse itself and MUSCF from said TIF Proceeds the full amount paid under each such 50% Guaranty. In payment of the foregoing, each dollar shall be paid 50% to City and 50% to MUSCF unless and until such party has been paid in full.

SECTION 3. City staff is instructed to develop with MUSCF, and the Mayor is expressly authorized to enter into, any and all necessary correspondence or agreements to provide MUSCF with adequate assurance that it may rely on the payment structure set forth in Section 2 above.

DONE IN MEETING DULY ASSEMBLED, on January 26, 2016.

	CITY OF CHARLESTON, SOUTH CARC	OLINA
	By:	
Attest:		
Clerk		

#### STATE OF SOUTH CAROLINA

#### **COUNTY OF CHARLESTON**

I, the undersigned, Clerk of City Council of Charleston, South Carolina, DO HEREBY CERTIFY:

That the foregoing is a true, correct and verbatim copy of a Resolution adopted by the said City Council, having been read at a duly called and regularly held meetings at which a quorum attended and remained throughout on January 26, 2016.

repeale	That the said d or rescinded.	Resolution	is now	in full	force	and	effect	and	has	not	been	modified,	amended
2016.	IN WITNESS	WHEREOR	F, I have	hereun	ito set	my :	Hand 1	this _		day	of		
							rk of (	•		cil o	f the (	City of Cha	arleston,

# REAL ESTATE COMMITTEE GENERAL FORM

TO:	Real Estate Committee	DATE: 1/25/16	
FROM:	Colleen Carducci	DEPT: BFRC	
ADDRES	S: Ann Street - Visito	r's Center Parking Garage – Re	tail Space
TMS: 4	590903147		
Action R			
	between the City (Land the City agrees to allow	cute the attached Lease Amendmord) and Member II, Inc. (Tenant) Tenant, as part of a restaurant kind install an above ground grease trees suppression system.	whereby tchen
ORDINAN	CE: Is an ordinance requ	ired? Yes No 🗆	
<u>COORDIN</u>		been coordinated with: ocumentation must be included	
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Damas		<u>Signature</u>	Attachments
-	tment Head	<u>Signature</u>	<u>Attachments</u>
Legal	rtment Head Department		Attachments
Legal Chief Direct	tment Head	<u>Signature</u>	Attachments
Legal Chief Direct	tment Head Department Financial Officer or Real Estate	<u>Signature</u>	Attachments
Legal Chief Direct Manag	tment Head Department Financial Officer or Real Estate gement  FUNDING: Was fun	Signature  France   Cantivell  Imy Wha raw  Celler (arducer  No	No O
Legal Chief Direct Manag	Tement Head  Department  Financial Officer  For Real Estate  gement  FUNDING: Was funding previde, provide the following:	Signature  France   Cantwell  Cantwe	No Cot:

**NEED:** Identify any critical time constraint(s).

<sup>\*</sup>Commercial Property and Community & Housing Development have an additional form.

TO: Real Estate Committee DATE: 1/25/16	
FROM: Colleen Carducci DEPT: BFRC	
ADDRESS: Ann Street – Visitor's Center Parking Garage	- Retail Space
TMS: 4590903147	
ACTION REQUEST:	
Authorize Mayor to execute the attached Lease Ame City (Landlord) and Member II, Inc. (Tenant) whereby the Tenant, as part of a restaurant kitchen improvement proje ground grease trap and a vent-less hood with a fire suppre	City agrees to allow ct, to install an above
ORDINANCE: Is an ordinance required? Yes No No	
ACTION: What action is being taken on the Property r	nentioned?
ACQUISITION Seller (Property Owner)	chaser
DONATION/TRANSFER Donated By:	
FORECLOSURE Terms:	
PURCHASE Terms:	
CONDEMNATION Terms:	
OTHER Terms:	
Seller (Property Owner) Purchase	ser
NON-PROFIT ORG, please name  Terms:	
OTHER Terms:	
EASEMENT Grantor (Property Owner) Gran	ntee
PERMANENT	

Terms	:
TEMPO	ORARY
rems	•
LEASE	Lessor: Lessee:
INITIAI	
Terms	
RENEV	NAL
Terms	
AMENI	<b>DMENT</b> The City agrees to amend the April 16 <sup>th</sup> , 1996 Lease Agreement
Terms:	with Member II, Inc. to include approval for Tenant, as part of a restaurant kitchen improvement project, to install an above ground grease trap and a vent-less hood with a fire suppression system.
п.	4.60
improveme ש :Owner	ent of Property
Terms:	
<i>CKGROUND</i> (perty, has a b	CHECK: If Property Action Request is for the sale or lease of city background check been completed?  Yes  No  N/A
sults:	
	Signature: Ollua Carducci
	Director Real Estate Management
DITIONAL: PI peals, etc.) reç	ease identify any pertinent detail (Clauses, Agreement Terms, garding City Property.



Ratification
Number

## AN ORDINANCE

AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY AN AMENDMENT TO THE LEASE AGREEMENT DATED APRIL 16, 1996 ORIGINALLY BETWEEN THE CITY AND ANN STREET ASSOCIATES, L.L.C., SUBSEQUENTLY ASSIGNED TO MEMBER II, INC., PERTAINING TO APPROXIMATELY 8,640 SQUARE FEET OF SPACE LOCATED IN AN AREA COMMONLY KNOWN AS THE VISITOR'S RECEPTION AND TRANSPORTATION CENTER.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute on behalf of the City an Amendment to the Lease Agreement dated April 16, 1996, originally between the City and Ann Street Associates, L.L.C., subsequently assigned to Member II, Inc., pertaining to approximately 8,640 square feet of space located in an area commonly known as the Visitor's Reception and Transportation Center, a copy of said Amendment being attached hereto as Exhibit A and made a part hereof.

Section 2. This Ordinance shall become effective upon ratification.

	Ratified in City Council this day of
	in the Year of Our Lord, 2016,
	and in theth Year of the Independence of
	the United States of America
	John J. Tecklenburg, Mayor
	,
ATTEST:	
	Clerk of Council

STATE OF SOUTH CAROLINA	)	
	)	LEASE AMENDMENT
COUNTY OF CHARLESTON	)	

THIS LEASE AMENDMENT entered into this \_\_\_\_\_day of \_\_\_\_\_\_, 2016, by and between the CITY OF CHARLESTON, SOUTH CAROLINA (hereinafter referred to as the "Lessor"), and MEMBER II, INC. (hereinafter referred to as the "Lessee").

WHEREAS, the Lessor and Lessee entered into a Lease Agreement (hereinafter referred to as the "Lease") on April 16, 1996, wherein the Lessor leased to Lessee the below described premises located on Ann Street, Charleston, South Carolina, pursuant to the terms and conditions as set out therein, subject to the covenants, conditions, and stipulations therein contained.

That certain improved street level space which is located in the City of Charleston's parking garage on Ann Street (bounded by Meeting and King Streets), more commonly known as the Visitors Reception and Transportation Center (VRTC) garage, in the City of Charleston, South Carolina, measuring and containing approximately eight thousand six hundred and forty (8,640) square feet, more or less, and being more particularly described on Exhibit "A" (hereinafter referred to as the "Leased Premises"); and

WHEREAS, the Lease was subsequently assigned to Lessee on February 12th, 1997; and

WHEREAS, the Lessee has requested approval for, and the Lessor is minded to permit, a subtenant to install, as part of a restaurant kitchen improvement project that will serve fried foods on site, an above ground grease trap and a vent-less hood with a fire suppression system;

NOW THEREFORE, for and in consideration of the sum of One (\$1.00) Dollar and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lessor and Lessee agree as follows:

- 1. Paragraph 7. <u>Use Restrictions</u>. of the Lease is hereby amended by modifying subpart (b) thereof to read as follows (amendatory language in **bold**)
  - (b) Any restaurant which prepares fried foods on site or utilizes kitchen equipment which cannot be adequately ventilated within the structure of the leased Premises, or any restaurant requiring a grease collection system and/or a refrigeration system with exterior condenser. Restaurants without extensive exhaust requirements, such as delicatessens, bakeries, or coffee shops shall be permitted. **Restaurants preparing**

fried foods on site may, with prior written approval of the Lessor and with all appropriate regulatory permits, utilize an interior above ground grease trap and a vent-less cooking system with a fire suppression system.

2. In all other respects, the Lease entered into by and between the Lessor and Lessee remains unmodified and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their Hands and Seals the day and year first above written.

IN THE PRESENCE OF:	THE CITY OF CHARLESTON, LESSOR
	By: John J. Tecklenburg, Mayor
	ATTEST:
	Clerk of Council
	MEMBER II, INC., LESSEE
	Ву:
	Its: